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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,649	04/17/2000	Jarod Guertin	CNA-029	1375

7590 02/11/2004  
Ciena Corporation  
Legal Department  
1201 Winterson Road  
Linthicum, MD 21090

EXAMINER

KIM, DAVID S

ART UNIT PAPER NUMBER

2633

DATE MAILED: 02/11/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/550,649

Applicant(s)

GUERTIN ET AL.

Examiner

David S. Kim

Art Unit

2633

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-11.

Claim(s) withdrawn from consideration: none.

8. ☒ The drawing correction filed on 29 December 2003 is a) ☐ approved or b) ☒ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE: The Applicant's proposed amendment introduces limitations absent from the previous version of the claims. In doing so, the proposed amendment raises new issues related to a change in the scope of the claims. A proper and sufficient response to these new issues would require further consideration and/or search.

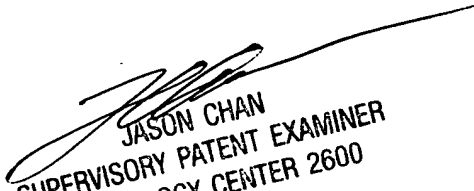
In particular, the newly introduced limitations absent from the previous version of the claims is:

"monitoring a signal quality for the bit error rate test signal at an input of each of the N optical transmitters and each of the N optical receivers" (claim 1),

"monitoring a signal quality of the bit error rate signal input to each transmitter and each receiver" (claim 5), and

"monitoring a signal quality of said bit error rate signal input to each of said transmitters and said receivers (claim 9).

Continuation of 10. Other: Applicant amended Fig. 2 in response to an objection raised in the previous Office Action (Paper No. 5). However, Fig. 2 remains disapproved. Although the internal performance monitor 260 has been added to the transmitter TXN in optical communication element 112, the location of the added internal performance monitor 260 (upper left side of transmitter TXN ) does not appear to be located in the same position (lower right side) as the other internal performance monitors 260 in the other transmitters in optical communication element 112. Correction to place the added internal performance monitor 260 in transmitter TXN to the lower right side of transmitter TXN is encouraged.

  
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